

Attorney Docket No. 020921-001110US

PTO FAX NO.: 1-571-273-0025

Examiner Thanh X. Luu // Group Art Unit 2878

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APR 07 2006

OFFICE OF PETITIONS

OFFICIAL COMMUNICATION
FOR THE PERSONAL ATTENTION OF
OFFICE OF PETITIONS

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following documents in re Application of VICTOR B. KLEY, Application No. 10/047,454, filed January 14, 2002 for SCANNING PROBE MICROSCOPE ASSEMBLY AND METHOD FOR MAKING SPECTROPHOTOMETRIC, NEAR-FIELD, AND SCANNING PROBE MEASUREMENTS are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Documents Attached

1. Petition to Withdraw Application From Issue Under 37 C.F.R. 1.313(a)(2) – (1 page)
2. Petition Fee Transmittal, and 1 copy (2 pages)

Number of pages being transmitted, including this page: 4

Dated: April 7, 2006


Valerie Peterson

**PLEASE CONFIRM RECEIPT OF THIS PAPER BY
RETURN FACSIMILE AT (415) 576-0300**

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834
Telephone: 650-326-2400
Fax: 650-326-2422
0039

60743897.v1

PATENT
Attorney Docket No.: 020921-001110US

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF PETITIONS

In re application of:

VICTOR B. KLEY

Application No.: 10/047,454

Filed: January 14, 2002

For: SCANNING PROBE MICROSCOPE
ASSEMBLY AND METHOD FOR MAKING
SPECTROPHOTOMETRIC, NEAR-FIELD,
AND SCANNING PROBE MEASUREMENTS

Customer No. 20350

Confirmation No. 3079

Examiner: Thanh X. Luu

Technology Center/Art Unit: 2878

PETITION TO WITHDRAW
APPLICATION FROM ISSUE
UNDER 37 C.F.R. § 1.313(c)(2)Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant paid the issue fee for this application on January 25, 2006. Since that time, four Japanese patent references have come to Applicant's attention in connection with the prosecution of a Japanese counterpart of an ancestor of this application.

Applicant petitions to withdraw this application from issue. Applicant is submitting, via Express Mail, an RCE and an Information Disclosure Statement to allow consideration of the Information Disclosure Statement and five cited references.

Respectfully submitted,

David N. Slone
Reg. No. 28,572TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415-576-0300
DNS:vap
60743872 v1

04/14/2006 CKHLOK 00000009 201430 10047454

01 FC:1464 130.00 DA

PTO/SB/17p (11-05)

PETITION FEE
Under 37 CFR 1.17(f), (g) & (h)
TRANSMITTAL

(Fees are subject to annual revision)

Send completed form to: Commissioner for Patents
 P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	10/047,454
Filing Date	January 14, 2002
First Named Inventor	Victory B. Kley
Art Unit	2878
Examiner Name	Thanh X. Luu
Attorney Docket Number	020921-001110US

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OFFICE OF PETITIONS

Enclosed is a petition filed under 37 CFR 1.313 that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(l), see form PTO/SB/17i.

Payment of Fees (small entity amounts are NOT available for the petition fees)

☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 20-1430:

☐ petition fee under 37 CFR 1.17(f), (g) or (h) ☐ any deficiency of fees and credit of any overpayments

Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of \$ _____ is enclosed.

☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462

For petitions filed under:

- § 1.36(a) - for revocation of a power of attorney by fewer than all applicants.
- § 1.53(e) - to accord a filing date.
- § 1.57(a) - to accord a filing date.
- § 1.182 - for decision on a question not specifically provided for.
- § 1.183 - to suspend the rules.
- § 1.378(a) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463

For petitions filed under:

- § 1.12 - for access to an assignment record.
- § 1.14 - for access to an application.
- § 1.47 - for filing by other than all the inventors or a person not the inventor.
- § 1.59 - for expungement of information.
- § 1.103(a) - to suspend action in an application.
- § 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 - for review of refusal to publish a statutory invention registration.
- § 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(e) - for patent owner requests for extension of time in *ex parte* reexamination proceedings.
- § 1.956 - for patent owner requests for extension of time in *inter partes* reexamination proceedings.
- § 5.12 - for expedited handling of a foreign filing license.
- § 5.15 - for changing the scope of a license.
- § 5.25 - for retroactive license.

Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464

For petitions filed under:

- § 1.10(g) - to request documents in a form other than that provided in this part.
- § 1.84 - for accepting color drawings or photographs.
- § 1.91 - for entry of a model or exhibit.
- § 1.102(d) - to make an application special.
- § 1.138(c) - to expressly abandon an application to avoid publication.
- § 1.313 - to withdraw an application from issue.
- § 1.314 - to defer issuance of a patent.

David Slone

Signature

David N. Slone

Typed or printed name

April 7, 2006

Date

28,572

Registration No., if applicable

60743461 v1

PTO/SB/17p (11-05)

PETITION FEE
Under 37 CFR 1.17(f), (g) & (h)
TRANSMITTAL

(Fees are subject to annual revision)

Send completed form to: Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	10/047,454
Filing Date	January 14, 2002
First Named Inventor	Victory B. Kley
Art Unit	2878
Examiner Name	Thanh X. Luu
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- § 1.550(c) - for patent owner requests for extension of time in *ex parte* reexamination proceedings.
- § 1.856 - for patent owner requests for extension of time in *inter partes* reexamination proceedings.
- § 5.12 - for expedited handling of a foreign filing license.
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